IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 3117 (S/S) 01

Ghan Shyam Singh Rawat
S/o late Keshar Singh Rawat,
R/o Pashulok Farm, Rishikesh,
District Dehradun. ----------Petitioner.

Vs.

1. The State of Uttarakhand through Principal Secretary, Animal Husbandry Department, Dehradun,
2. The Deputy Director, Animal Husbandry Department, Pashulok Farm, Rishikesh, Dehradun,
3. Narendra Pal Singh, Tractor Driver, Govt. Animal Husbandry & Dairy Farm, Kalsi Dehradun. ---------Respondents.

Sri A.D. Tripathi, learned counsel for the petitioner.
Sri H.M. Raturi, learned Standing counsel for the state/respondents no. 1 & 2.
None for respondent no.3.

Hon'ble M.M. Ghildiyal, J.

Heard Sri A.D. Tripathi, learned counsel for the petitioner and Sri H.M. Raturi, learned Standing Counsel for the State/respondent no. 1 & 2. None for respondent no.3.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i Issue a writ, order or direction in the nature of certiorari and set aside the operation of the orders dated 26.05.2001 and 20.05.1999 passed by the respondent no. 2 contained in annexure nos. 1 & 6 till the pendency of the case,

ii Issue a writ, order or direction in the nature of mandamus directing the respondent to consider the claim of the petitioner in accordance with the U.P. Hill-

sub –cadre Rules 1992, with all consequential service benefits of seniority and promotion,

iii Issue a writ, order or direction which this Hon'ble Court may deem fit and proper to the extent of the case and decide the representation of the petitioner,

iv Award the cost of the Petition.

Stand of the petitioner is that he is working as Tractor Operator with the respondents' Department. One Sri Narendra Pal Singh, who is also working with the respondents' Department, has been promoted on the post of Tractor Mechanic/Driver vide order dated 26.05.2001 however, the respondents are not considering petitioner's claim for his promotion on the post of Tractor Mechanic. Aggrieved with the order dated 26.05.2001 , the petitioner preferred this writ petition.

During the course of arguments, learned counsel for the petitioner has submitted that the petitioner is being paid promotional pay scale since 2004 in pursuance of the G.O. issued by the Govt. in this regard.

On the contrary learned Standing counsel for the State has informed the Court today that he has received instructions from the Department wherein it is state that against the impugned order dated 26.05.2002, the petitioner preferred Claim Petition before the Public Service Tribunal, Lucknow which was later on transferred to the Uttarakhand Public Service Tribunal and the Claim Petition of the petitioner has already been dismissed by the Tribunal vide order dated 27.08.2002.

Aggrieved with the order impugned the petitioner, on one hand has filed the instant writ petition before this Court on the other he has file claim petition before the Public Service Tribunal. Thus, the petitioner cannot avail two remedies simultaneously against the order impugned. The petitioner has not challenged the order passed by the Tribunal. Thus the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

August 17,2007:
NCM: